

REMARKS

No claims are requested to be cancelled.

No claims are currently being amended.

This amendment does not add, change and/or delete claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 1-20 remain pending in this application.

In paragraphs 1 and 2 of the Final Office Action, claims 1-20 are rejected under 35 U.S.C. § 103 as being unpatentable over “Proposal for an ALM Open Architecture” (Fornes) in view of U.S. Patent No. 6,646,998 (Räsänen). In an Advisory Action, in response to Applicant’s argument that the combination of the two references was improper because Fornes teaches away from Räsänen, the Examiner stated:

Fornes teaches a system that changes or negotiates a new data rate during transmission even though the system starts with a low initial data rate according to a number of conditions. Fornes does not disclose that the rate negotiation being performed before transmission begins. Rasanen discloses a technique for negotiating an optimum data rate before the transmissions begin, therefore the capacity of the system can be optimized.

The Examiner admits that Fornes does not disclose that the link parameters are set during initial linking. Fornes actually teaches a system for optimizing a connection after the channel has been established during transmission. As pointed out by the Examiner, Räsänen discloses a technique for negotiating an optimum data rate before the transmissions begin, therefore the capacity of the system can be optimized. However, optimizing the channel before transmission using the teachings of Räsänen negates any need to utilize the teachings of Fornes and renders Fornes inoperable. If the channel is already optimized using the disclosure of Räsänen, there would be no point in re-optimizing the channel using the

invention of Fornes. Accordingly, Fornes and Räsänen are mutually exclusive and teach away from each other.

Further, Fornes specifically argues against using the approach recited in the claims of the present application to optimize communication. Specifically, on page 25/3, Fornes states:

“It is questioned what could have been best between: 1. exchanging results of measurements between peer ALM ... the conclusion is that exchanging the results of measurements may not be appropriate in the case of peer ALM produced by different manufacturers.”

Fornes teaches against exchanging the results of measurements because it would require the transmitting node to “have the knowledge of the receiving node HF performance.” (Fornes, page 25/3) Accordingly, it is respectfully submitted that claims 1-20 are patentable over Fornes in view of Räsänen because the combination of these references is improper. According, Fornes teaches away from the suggested combination for this additional reason.

Reconsideration and allowance of claims 1-20 is respectfully requested.

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Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 18-1722. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 18-1722. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 18-1722.

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